

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) PATRICIA THOMPSON, as )  
Personal Representative of the )  
Estate of MARCONIA LYNN )  
KESSEE, )

Plaintiff, )

-vs- )

No. CIV-19-113-SLP

(1) NORMAN REGIONAL HOSPITAL )  
AUTHORITY d/b/a NORMAN )  
REGIONAL HOSPITAL, a public )  
trust, et al., )

Defendants. )



\* \* \* \* \*

VIDEOCONFERENCE DEPOSITION OF STACY SHIFFLETT

TAKEN ON BEHALF OF THE PLAINTIFF

IN OKLAHOMA CITY, OKLAHOMA

ON JANUARY 12, 2021

COMMENCING AT 9:13 A.M.

\* \* \* \* \*

REPORTED BY: BETH A. MCGINLEY, CSR, RPR

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EXHIBIT

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1 Q And do you believe that the Cleveland County  
2 Detention Center consistently treats inmates like they  
3 treated Marconia Kessee on January 16, 2018?

4 MS. DARK: Object to the form.

5 A I can't speak for everybody, but I know I do.

6 Q (By Mr. Hammons) Treated -- you treated -- you  
7 treat all inmates the same as you treated Marconia  
8 Kessee; true?

9 A Yes.

10 Q Not better, not worse; the same?

11 A Correct.

12 Q If we could go to 313, sir. Are you there?

13 A Yes.

14 Q This is a Policy 1.03. It's under  
15 "Administration." It's called "Policy and Procedures."  
16 Do you see the definitions under that -- in that --  
17 middle of that page?

18 A Yes.

19 Q Now, a -- the policy -- again, I think we kind  
20 of already talked about this, but the policy dictates --  
21 that particular policy dictates how the facility must  
22 be -- operate; true?

23 A True.

24 Q And they're -- basically, the policy is the  
25 guiding principles that state what will be done and why

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1 training, you don't -- don't necessarily have time to  
2 sit here and read every single page in an eight-hour  
3 shift, so you may not be aware of some of the policies,  
4 but you -- you do them to the best of your ability.

5 Q (By Mr. Hammons) But isn't it important to  
6 know the procedures and what the sheriff expects, his  
7 policy?

8 A It's important, but it's -- on a day-to-day  
9 basis, you -- sometimes you can't do that, you can't  
10 read all the policies.

11 Q No, but you can follow the policy; true?

12 A You can't follow it if you don't know it.

13 Q That's true. And so some of the policy,  
14 you -- you just didn't know?

15 MS. DARK: Object to the form.

16 A I did not. There's way too much policy to  
17 know here.

18 Q (By Mr. Hammons) Okay. Now, under  
19 "Procedure," this is -- this is a better definition than  
20 I gave. "The detailed and sequential actions that must  
21 be executed to ensure that a policy is fully  
22 implemented. It is the method of performing an  
23 operation or a manner of proceeding on a course of  
24 action. Procedures state how, when and where a task  
25 will be accomplished."

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1                   That's the -- the procedures part of this  
2   seems to be the most important part; do you agree with  
3   that?

4                   MS. DARK: Object to the form.

5           A       Yes.

6           Q       (By Mr. Hammons) And understanding how, when  
7   and where a task should be accomplished is important in  
8   a jail facility; true?

9           A       Not necessarily how or when, because every day  
10   is different in a jail. You don't have the same day  
11   twice. I mean, you -- you do this at different times,  
12   you do this at different locations, it just depends  
13   on -- it depends on the day.

14          Q       So the procedure changes at the Cleveland  
15   County Detention Center?

16                  MS. DARK: Object to the form.

17          A       Not necessarily the procedure, but how or  
18   when. I mean, it just -- it depends.

19          Q       (By Mr. Hammons) Well, you'd expect everyone  
20   in a jail facility to know the policies and procedures,  
21   wouldn't you?

22          A       No, because it just -- it's -- like, if you  
23   were going to, you know, give them a year to sit here  
24   and read it, then, yes, but when you do on-the-job  
25   training, you don't have time to do this.

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1           Q     Do you think that -- do you believe that you  
2     didn't have enough time to learn the policies and  
3     procedures, while you were at Cleveland County, well  
4     enough?

5           MS. DARK: Object to the form.

6           A     Well, you do on-the-job training and, when you  
7     have downtime, you -- you read policies and procedures.

8           Q     (By Mr. Hammons) Yeah, but did you think you  
9     needed more time?

10          A     No. I mean, I think I had -- I was given the  
11     time, but, you know, I only worked there for two and a  
12     half years. That's a lot of pages to read in that short  
13     amount of time, with working, too.

14          Q     Okay. But you -- you understand that certain  
15     policies, procedures in here, certainly apply to your  
16     specific job duties as a detention officer; true?

17          A     True.

18          Q     And there's not that many; true?

19          A     There's a lot, that I can recall, but -- I  
20     mean, there's -- there's a lot of -- a lot of policies  
21     and procedures in here.

22          Q     Okay. And the fact that there's a lot of  
23     policies and procedures in there means that there's --  
24     the job is important to get -- to know those policies  
25     and procedures; true?

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1           A     I mean, you -- eventually, you did a medical  
2     intake on an inmate.

3           Q     (By Mr. Hammons) Okay. So, for instance, if  
4     that policy of doing a medical intake screening is not  
5     done for an inmate, that can lead to death; true?

6           MS. DARK: Object to the form.

7           A     No.

8           Q     (By Mr. Hammons) Okay. Why do you do medical  
9     screenings of inmates?

10          A     To get their background. You want to know if  
11     they have any medical problems or -- whatever they ask.  
12     I don't remember what they usually ask, but I remember  
13     if it was, like, critical observation, and then you took  
14     a blood pressure and just their medical history.

15          Q     Right. So let's use -- let's use your  
16     situation for an example. If you just unfortunately got  
17     arrested, and wrongfully arrested because you were  
18     having a diabetic episode where you were low on sugar  
19     and it mimicked the signs and symptoms of being under  
20     the influence of alcohol. Follow me so far?

21          A     Uh-huh. Yes.

22          Q     Okay. And you went in and a jail facility did  
23     not do the medical screening, for whatever reason, and  
24     they put you in a jail cell, and they didn't ask you,  
25     are you a diabetic and are you having troubles and are

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1 you having problems and what's going on, and you died.

2 That's the reason we have medical screenings, right?

3 MS. DARK: Object to the form.

4 Q (By Mr. Hammons) So that doesn't happen?

5 MS. DARK: Object to the form.

6 A I mean, yes, but, like I -- I know -- I know  
7 we're just talking about policies, but a medical  
8 screening is on medical, not a detention officer. I --  
9 I know you're just giving me an example, but -- but,  
10 like...

11 Q (By Mr. Hammons) Overall, what I'm trying to  
12 point out is that there's a reason that the sheriff  
13 implemented policies and procedures and it was not so  
14 that -- it was so that his detention officers and staff  
15 would follow those policy and procedures; true?

16 A True.

17 Q And what I'm saying is, is there are  
18 particular policies and procedures there that are so  
19 important that, if they're not followed, people can die?

20 MS. DARK: Object to the form.

21 Q (By Mr. Hammons) True?

22 A True.

23 Q Or at least be seriously injured; true?

24 A True.

25 Q Who makes the policy at the Cleveland County

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1 MS. DARK: Object to the form.

2 A True.

3 Q (By Mr. Hammons) I mean, you got -- you got a  
4 guy that's supposed to be doing his job and he doesn't  
5 even know what the job is, that's -- that's bad for you;  
6 true?

7 MS. DARK: Object to the form.

8 MS. THOMPSON: Object to the form.

9 A True.

10 Q (By Mr. Hammons) It could lead to disasters;  
11 true?

12 MS. DARK: Object to the form.

13 A True.

14 Q (By Mr. Hammons) Would you expect medical  
15 staff at the jail to recognize and be able to recognize  
16 and be trained on the signs of overdose?

17 MS. THOMPSON: Object to the form.

18 A Yes.

19 Q (By Mr. Hammons) I mean, even -- even  
20 detention officers are trained to see the signs of some  
21 overdose; true?

22 A No. We didn't get trained on overdose.

23 Q I guess through your experience, you could  
24 probably tell if somebody was having some distress from  
25 overdose; true?



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1 MS. DARK: Object to the form.

2 A I mean, not really. Everyone is different.

3 Some people is going to react differently.

4 Q (By Mr. Hammons) But the medical staff, you'd  
5 -- you'd definitely think that they would understand the  
6 signs and symptoms of -- of drug overdose?

7 A Correct.

8 Q And if the jail staff isn't qualified to see  
9 the signs of drug overdose, inmates at the Cleveland  
10 County Detention Center couldn't receive medical  
11 treatment or medical assessment for that; true?

12 MS. DARK: Object to the form.

13 MS. THOMPSON: Object to the form.

14 MS. DARK: I didn't understand that question.

15 THE WITNESS: Yeah, I --

16 MR. HAMMONS: Yeah, it was not a good  
17 question.

18 THE WITNESS: I didn't, either, sorry.

19 Q (By Mr. Hammons) At the Cleveland County  
20 Detention Center, you said, as a detention officer,  
21 it's -- it's really not -- what I'm hearing is: It's  
22 not your job to make the determination if somebody is on  
23 a drug overdose or not?

24 A Correct. That's medical.

25 Q Okay. And if the medical person admittedly

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1           A     As a detention officer, we're just there to  
2     provide security for medical, so I -- I do not know.  
3     That's what my job was, is to provide security for  
4     medical.

5           Q     Nothing else?

6           A     Nothing else.

7                     MS. DARK: Object to the form.

8           Q     (By Mr. Hammons) Okay. So you didn't have any  
9     job duties or any duties with respect to whether this  
10    process of a medical screening was done or not?

11          A     I don't know.

12          Q     Okay. If a -- if -- who else -- who else at  
13    the jail, on January 16, 2018, would -- would have been  
14    able to make a decision on if something was medically  
15    wrong with Marconia?

16          A     The nurse or the supervisor on shift is the  
17    two people that dealt with that.

18          Q     Well, so, does the supervisor have any medical  
19    training?

20          A     I don't know.

21          Q     I mean, you knew him, you worked with him for  
22    two years. Did -- did he have medical training?

23          A     I -- I only worked with Andrews for, like,  
24    three months. I was on nights prior to coming with  
25    Andrews, so I'm not sure.

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1 Q And did he ever tell you, "Yeah, I'm a nurse  
2 or a doctor"?

3 A I'm not sure.

4 Q Okay. Can you at least agree with me that  
5 Clayton Rickert is supposed to know how to provide  
6 medical treatment to inmates?

7 MS. THOMPSON: Object to the form.

8 A I'm not sure, because I'm not medically  
9 trained. Like, I don't know what is required of  
10 medical.

11 Q (By Mr. Hammons) I understand you don't know  
12 how to treat patients, but there's a different question  
13 here. Are you going to go to the jury and tell the jury  
14 that you didn't know that a nurse at the jail was  
15 supposed to know how to do medical treatment?

16 MS. THOMPSON: Object to the form.

17 A I don't know -- like, I've seen, over time,  
18 how a medical intake works, but I wasn't shown how --  
19 from -- a nurse didn't go through with me, like, what  
20 you do, so I -- whatever they're saying, I would think  
21 that's true. I don't know if it's the correct way,  
22 though.

23 Q (By Mr. Hammons) Not asking you about the way  
24 or the procedure. I'm asking you: Are you going to be  
25 able to tell the jury that you don't know that you -- in

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1 January 16th, 2018, you thought a nurse at the jail  
2 would be able to provide medical care.

3 MS. THOMPSON: Object to the form.

4 A I'm going to tell them I think a nurse was  
5 going to provide medical care.

6 Q (By Mr. Hammons) It would be insane not to  
7 have a nurse there that doesn't know how to provide  
8 medical care, right?

9 A Correct.

10 MS. THOMPSON: Object to the form.

11 Q (By Mr. Hammons) I mean, it's obvious. I'm  
12 not trying to trick you. This is obvious.

13 A Right, I gotcha.

14 Q Okay? Nurse -- Nurse Rickert is supposed to  
15 know how to do medical treatment; true?

16 MS. THOMPSON: Object to the form.

17 A True.

18 Q (By Mr. Hammons) I mean, why else is he there?

19 MS. THOMPSON: Object to the form.

20 A I'm not sure.

21 Q (By Mr. Hammons) I mean, I know he had to  
22 check some boxes, right? He had forms to fill out;  
23 true?

24 A I'm not sure on that.

25 Q As a jailer or detention officer, have you

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1 things that a detention officer -- if they don't do  
2 their job correctly, can lead to death; true?

3 MS. DARK: Object to the form.

4 A I don't -- I don't know. I don't know that.

5 Q (By Mr. Hammons) Well, I -- we've given the  
6 example. If -- if somebody is -- if you're a diabetic  
7 and you need insulin and you're left in a padded cell  
8 alone and no one checks on you and you die, that's on  
9 the detention officer, isn't it?

10 MS. DARK: Object to the form.

11 A I don't know.

12 Q (By Mr. Hammons) You -- you don't know if it  
13 is?

14 A Anybody can walk by and see anything. Like,  
15 that could be on anybody, not just the detention  
16 officer.

17 Q Okay. Do you -- do you know, or has the  
18 sheriff ever trained you, whether or not inmates in the  
19 county jail are constitutionally entitled to reasonable  
20 medical treatment?

21 A I don't know that. I don't remember that.

22 Q And the -- you were never trained on that by  
23 the Cleveland County Detention Center?

24 MS. DARK: Object to the form.

25 A I don't -- I don't remember. I don't know.

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1           Q     (By Mr. Hammons) Well, do you have any opinion  
2     as to whether they should be constitutionally given  
3     medical treatment?

4           A     I don't have an opinion on it. I don't know.

5           Q     De- -- would it depend on the person?

6           A     No, everybody gets treated the same.

7           Q     So either they get treatment or they don't get  
8     treatment?

9           A     I don't know. I don't know.

10          Q     And I take it you didn't know that Clayton  
11     Rickert -- you didn't know he testified that he cannot  
12     assess a medical condition?

13                   MS. THOMPSON: Object to the form.

14          A     I did not know that.

15          Q     (By Mr. Hammons) Does that shock you, that the  
16     words, "I'm not qualified," and, "I can't -- cannot  
17     assess a medical condition," came out of a nurse's mouth  
18     that you were working with? Does that shock you?

19                   MS. THOMPSON: Object to the form.

20          A     I don't know. I mean, I don't know.

21          Q     (By Mr. Hammons) Does that sound reasonable?

22          A     I can't --

23                   MS. THOMPSON: Object to the form.

24          A     -- speak for him. I don't know.

25          Q     (By Mr. Hammons) I'm not speaking for him.

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1 I'm --

2 A I can't --

3 Q -- asking you: Do you, personally, think that  
4 is reasonable?

5 A I don't know. I don't know.

6 Q Do you believe, on January 16th, 2018,  
7 Marconia Kessee received great medical treatment?

8 MS. DARK: Object to the form.

9 A Yes.

10 Q (By Mr. Hammons) There's nothing wrong with  
11 the treatment he got while he was in the jail, in --  
12 from the time he was carried in by you and Mr. Barr  
13 until the time he was wheeled out, dead, there was  
14 nothing wrong with his treatment?

15 MS. DARK: Object to the form.

16 A No. I had a nurse beside me the whole time.

17 Q (By Mr. Hammons) A nurse that admittedly is  
18 not qualified; true?

19 MS. DARK: Object to the form.

20 MS. THOMPSON: Object to the form.

21 A I do not know that. Like, I know what you're  
22 saying, that's what he's saying, but I don't know. I  
23 didn't -- I don't know he wasn't qualified.

24 Q (By Mr. Hammons) And everything done and said  
25 to Marconia was exactly how you were trained to do it;

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1 through this next section pretty quick and catch us up.

2 We're going to go to 314 on Exhibit 1, of  
3 the -- the Cleveland County policy and procedure.

4 Now, what I'm interested in is Letter D. You  
5 see, towards the bottom, that "Review of Policy and  
6 Procedures"?

7 A Yes.

8 Q And it says, "Annually, a committee will be  
9 appointed by the administrator to review current  
10 policies and procedures, taking into consideration new  
11 developments."

12 When you were at Cleveland County Detention  
13 Center, were you -- did you ever hear about an annual  
14 committee appointed by the administrator?

15 A Not that I can remember.

16 Q And I -- so I take it you were never on that  
17 committee to review the policy and procedures?

18 A No.

19 Q Okay. Was there ever any review of the policy  
20 and procedures, while you were there, concerning new  
21 developments?

22 A Yes, they went to a new policy... like, I  
23 don't know -- they went to some new policy. They did  
24 have it then.

25 Q Okay.



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1 A Something the sheriff put in place.

2 Q Okay. So at some point in time, there was at  
3 least a meeting to say, "There is -- there are  
4 developments in our policy and procedure"?

5 A Correct.

6 Q Okay. And that was sometime before  
7 Marconia's --

8 A This was after.

9 Q After Marconia's situation?

10 A Yes.

11 Q Okay. Do you know specifically what the  
12 changes were?

13 A It was a whole new policy system. That's --  
14 it was Lexipol.

15 Q What is it?

16 A Lex- -- Lexipol.

17 Q What's that mean?

18 A That's the name of the -- the policies.

19 Q Okay. At some point in time, was there any --  
20 was -- what was the training? Was it just a meeting?

21 A For the policies?

22 Q Yeah.

23 A Yeah, it was a -- on a computer, you had to  
24 acknowledge them.

25 Q Okay. So they were sent to you in some way

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1 electronically or you accessed them at the jail?

2 A You got on Lexipol.com and that's how you did  
3 the policies.

4 Q Okay. And then you were able to either --  
5 kind of like we see with lots of things, you scroll to  
6 the bottom and push "acknowledge I've read these," and  
7 sign?

8 A Correct.

9 Q Is that what you did?

10 A I don't remember. I mean, probably on some of  
11 them, it -- because I think there's more policies than  
12 this, but, on most of them, you read through them, kind  
13 of skim through them, the topics, hit the -- like, the  
14 bold things and stuff.

15 Q Right. Kind of peruse through them and then  
16 push "I understand"?

17 A (Moved head up and down). Yes, sir.

18 Q Right?

19 A Correct.

20 Q Okay. Did you -- did you -- when you were  
21 perusing that new document, did anything stick out to  
22 you that would have applied to January 16, 2018?

23 A No.

24 Q All of that seemed to be similar or the same?

25 A Yes.

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1 Q (By Mr. Hammons) I mean, if you -- if -- if  
2 somebody was out of line, the sheriff would tell you,  
3 you were out of line; true?

4 A The chief would. I mean, not with -- the  
5 sheriff, it usually wouldn't make it that -- unless it  
6 was something serious, but --

7 Q Okay.

8 A -- usually your -- your supervisors handle it.

9 Q Right. And the treatment of Marconia is the  
10 way you were trained to treat inmates; true?

11 A True.

12 Q And that type of treatment is -- of inmates,  
13 was the standard set by Cleveland County; true?

14 A True.

15 Q So -- and it wouldn't -- as we were talking  
16 about earlier, on fairness, it doesn't matter what the  
17 inmate's con- -- condition is, that is the way he --  
18 they are treated in Cleveland County, when you worked  
19 there?

20 A That's the way --

21 MS. DARK: Object to the form.

22 A -- I treated people.

23 Everybody treats people differently, but I  
24 treated...

25 Q (By Mr. Hammons) But you felt like you were

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1 MS. THOMPSON: Object to the form.

2 Q (By Mr. Hammons) If you'd go to three -- let's  
3 go to 377, just real fast. Now, up at 10, this is kind  
4 of what we're talking about, right? "The arrestee will  
5 be taken to the medical screening room and overseen by a  
6 detention officer." Is that -- that's kind of the  
7 process we're talking about here; true?

8 A True.

9 Q Okay. And then, "Upon completion of the  
10 medical screening, the detention officer will have  
11 the -- secure the door to processing opened"; true?

12 A True.

13 Q Is processing -- I've seen a counter with a  
14 bunch of, like, computers, and it's kind of an open  
15 room. Is that processing?

16 A Yes, that's processing.

17 Q Okay. And then -- let's go to 378, and this  
18 is 3.02, "Processing." It's called, "Initial  
19 Medical/Mental Health Screening." Do you see that, sir?

20 A Yes.

21 Q And at the time of your working there, you  
22 would be familiar with this process; true?

23 A True.

24 Q And this, obviously, is an important policy  
25 and procedure for a jail facility; true?

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1           A     True.

2           Q     Okay. And we talked about some of the  
3 reasons. It's so that we catch these medical conditions  
4 or mental health conditions; true?

5           A     True.

6           Q     Because the jail facility doesn't want to  
7 place people in jail cells that are having potentially  
8 life-threatening problems; true?

9           A     True.

10          Q     And this particular policy and procedure, if  
11 it's not followed, this can have catastrophic results;  
12 true?

13                   MS. DARK: Object to the form.

14          A     True.

15          Q     (By Mr. Hammons) Before Marconia Kessee,  
16 what -- describe for me -- when you first started at  
17 Cleveland County, what training on these policies and  
18 procedures did you receive?

19          A     Like, re- -- can you reword the question?

20          Q     Sure. I'm trying to figure out: Is -- did  
21 you -- did you go and sit in a classroom and somebody  
22 kind of went through, like we're doing, and said, "Hey,  
23 here's some policies and procedures," or did you -- were  
24 you just told about them, handed a copy, told where the  
25 copy was, and then on the job was the training?

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1 Q Okay. Was it two straight weeks, every day,  
2 or was it sporadically?

3 A You did a -- a Monday through Friday for two  
4 straight weeks.

5 Q Okay. And that would have been towards the  
6 beginning of your employment?

7 A I think I went March or April of 2017, so...

8 Q Okay.

9 A Pretty close, kind of like the first six or  
10 seven months.

11 Q And then after that -- that training, whenever  
12 it was, March of '17, after that and before Marconia's  
13 January 16th incident, the policies and procedures  
14 specifically, there's not any training done on those?

15 MS. DARK: Object to the form.

16 A Not that I can recall.

17 Q (By Mr. Hammons) Okay. Nothing like a  
18 two-week course again?

19 A No.

20 Q Now, this says, on this policy -- back to 378  
21 of Exhibit 1 -- "Every new intake to the facility will  
22 be given a medical and mental health screening to detect  
23 the need for medical, mental healthcare, including  
24 medications and emergency treatment." Do you see that?

25 A Yes.

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1 Q Does that sound like a familiar policy from  
2 back when you were there?

3 A Yes.

4 Q And is that a -- a -- a safe policy?

5 MS. DARK: Object to the form.

6 A Yes.

7 Q (By Mr. Hammons) And why is that a safe  
8 policy?

9 A Because everyone is getting a medical intake  
10 and then medicine. Like me, for an example, they would  
11 know I had insulin and...

12 THE REPORTER: I can't -- could you speak up?

13 THE WITNESS: Like for me, for an example,  
14 they would know I have insulin, so that would be good  
15 then --

16 Q (By Mr. Hammons) Right.

17 A -- medical intake.

18 Q And if we don't do these kinds of intakes,  
19 there's the potential that we don't know people are  
20 having issues; true?

21 A True.

22 Q And January 16, 2018 -- obviously, we'll talk  
23 more about the reasons, but the obvious is, is this  
24 wasn't done for Marconia; true?

25 A True.

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1 Q Definitions. "Fit for incarceration." That  
2 is a slip that's signed by a physician declaring some  
3 new inmate is able to be booked in; true?

4 A True.

5 Q And January 16, 2018, when Marconia was put  
6 into the padded cell, the Cleveland County Detention  
7 Center did not have a fit slip in that intake room;  
8 true?

9 MS. DARK: Object to the form.

10 A I -- I don't know, I was -- I thought there  
11 was. I was told there was.

12 Q (By Mr. Hammons) Who told you there was?

13 A Oh, I'm not really -- I don't remember who  
14 told me. I remember it being said that there was a -- a  
15 fit slip -- he had just came from the hospital, had a  
16 fit slip, but... I'm not really sure.

17 Q Do you think it's --

18 A Remember that.

19 Q Well, I mean, clearly, you --

20 A It was said, but I don't really --

21 Q Yeah. Well, clearly, when you're in the  
22 intake room, you, Mr. Barr, and Clayton Rickert wouldn't  
23 know if there was a fit slip unless --

24 A The --

25 Q -- Officer Brown told you?



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1 A Correct.

2 Q So do you believe Officer Brown told you there  
3 was a fit slip in his possession?

4 A I don't remember if he said or not.

5 Q Okay. What if he said there was one on the  
6 way, is that sufficient?

7 A No.

8 Q You got to see it?

9 A Correct.

10 Q Okay. And if you don't see it and you put  
11 somebody in a jail cell, that's a violation of Cleveland  
12 County's policy; true?

13 MS. DARK: Object to the form.

14 A I believe so, yes.

15 Q (By Mr. Hammons) Now, do you believe, based on  
16 your training and experience as a detention officer,  
17 what Mr. Rickert would say, his screening in that intake  
18 room -- you've seen the video, right?

19 A Yes.

20 Q Do you think what Clayton Rickert did in that  
21 intake room was sufficient to make a determination to  
22 put Marconia in a padded cell?

23 A No, but I'm not sure on his training. I  
24 don't -- you know, he may have been able to judge faster  
25 than others.

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1     kicking me. Let's take his jeans off. Does he have  
2     shorts on? Fuck his ass. Let's do this." And I don't  
3     know what the other words were -- they were jumbled --  
4     as y'all were walking out.

5                 Does that sound like a normal intake process  
6     to you?

7                 MS. DARK: Object to the form.

8                 A     Not a normal, no.

9                 Q     (By Mr. Hammons) Did anybody at the Cleveland  
10     County Detention Center ever tell you that wasn't good  
11     enough, on the intake process?

12                A     No.

13                Q     Did the sheriff ever tell you that that isn't  
14     good enough?

15                A     No.

16                Q     Did the sheriff -- did the sheriff ever  
17     question you as to why no one in the room asked Marconia  
18     about any medical condition?

19                A     No.

20                Q     Now, that particular process, if we take an  
21     inmate that's in a very similar situation of Marconia:  
22     mental disability, poor, having whatever issue he's  
23     having, I don't know what it is, whatev- -- what -- what  
24     you guys thought, but is that the -- what we see in that  
25     video, is that consistent with the way that the process

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1 was done January 16, 2018, of an intake of an inmate in  
2 a similar situation?

3 A Yes.

4 Q And all inmates in that similar situation were  
5 treated the same as Marconia?

6 A Correct.

7 Q Not better, not worse?

8 A Not better, not worse.

9 Q So if we took that video and -- we took it and  
10 we showed detention officers, for training purposes, you  
11 would say, "That's the way to do it" --

12 MS. DARK: Object --

13 Q (By Mr. Hammons) -- true?

14 MS. DARK: Object to the form.

15 A I mean, everything -- you know, every  
16 situation is different, but, if it was the same  
17 situation, yes.

18 Q (By Mr. Hammons) Okay. If we -- back to  
19 Exhibit 1 on 378. You see it's like -- I think that's  
20 Roman Numeral V, "Procedural Guidelines." Do you see  
21 that?

22 A Yes.

23 Q Now -- and it's procedural guidelines on how  
24 to do the initial mental health/suicide screening. Do  
25 you see that?

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1     assessment"; true?

2             A     True.

3             Q     In that situation, when you're in that intake  
4     room, is Rickert in charge?

5             A     Of the medical part, yes.

6             Q     So it would be up to him to decide whether to  
7     do an initial medical assessment or not?

8             A     Correct.

9             Q     But the policy says to do it; true?

10            A     I'm pretty sure it says -- and I may be  
11     wrong -- if -- because, I mean, we've done them before,  
12     where if an inmate's, you know, acting out or what --  
13     whatever the case may be, you can do an intake later on.  
14     You don't have to do it, like, right...

15            Q     Sure.

16            A     I'm pretty sure that's right. I mean, you  
17     know, you don't have to do it, like, right then and  
18     there. It just has to be done at a certain -- sometime  
19     while they're staying there.

20            Q     Right. It sounds reasonable. But don't you  
21     at least ask some questions of the inmate? Doesn't  
22     somebody at least ask and see if he can answer?

23                   MS. DARK: Object to the form.

24            A     Not every time, that I can recall.

25            Q     (By Mr. Hammons) Okay. Well, with Marconia,

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1     there was -- other than, "What size shoe do you wear and  
2     do you have stuff in your pockets," there was no  
3     question asked of -- of his mental or medical condition;  
4     do you agree with that?

5           A     Yes, that's -- I mean, medical was there, so  
6     we -- and we never ask that. That was medical.

7           Q     Right. But he -- he didn't -- he certainly  
8     didn't ask that?

9           A     No.

10          Q     If you go to 379, just the very next page.  
11     "If the arrestee has been in" -- Letter D, sorry.  
12     Letter D, Exhibit 1, 379. "If the arrestee has been in  
13     our facility previously and was classified as critical  
14     observation, the medical staff can reference the  
15     previous classification on their computer, as well as  
16     interview the arrestee regarding their current mental  
17     and emotional state."

18                   Do you have any knowledge whether or not  
19     Marconia had been in the Cleveland County Detention  
20     Center be- -- prior to January 16, 2018?

21          A     I don't have any knowledge of that.

22          Q     Is that something that you can look up as a  
23     detention officer?

24          A     Yes, you could do a -- a search by their date  
25     of birth, their last name, and it would bring up if

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1     they've been there.

2           Q     And would it bring up, like -- would it also  
3     log up, like, what medications they might have  
4     previously been on?

5           A     No, that was medical systems. Two different  
6     systems.

7           Q     Oh, so the medical staff could look up that  
8     information, if they had been there?

9           A     I believe so.

10          Q     Okay. And that -- that's important  
11     information to know, if they had a previous suicidal or  
12     critical observation classification; true?

13          A     True.

14          Q     Or if they've recently attempted suicide  
15     outside the facility, that would be important to know,  
16     too; true?

17          A     True.

18          Q     And that question was never asked of Marconia;  
19     true?

20          A     I mean, by what you read me there, I guess  
21     not, no.

22          Q     Right. You never heard, at any point in time,  
23     Clayton Rickert ask that question; true?

24          A     Not that I can recall.

25          Q     Right. And you never asked it; true?

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1           A     True.

2           Q     And no one else at the facility asked it, that  
3     you heard?

4           A     That I heard, no.

5           Q     Right. Did you -- do you have knowledge that  
6     Marconia, just a few months before this, tried to kill  
7     himself with pills?

8           A     I didn't have knowledge of that.

9           Q     Would that have been good information to know?

10          A     Yes.

11          Q     Officer Brown potentially could have known  
12     that information. Would that have been nice, if he'd  
13     have looked that up and told you?

14          A     I mean, I didn't know they could do that, but,  
15     yes, if --

16          Q     That would be really important information for  
17     you guys at the jail to know; true?

18          A     True.

19          Q     Yeah.

20                 MS. GOOCH: Object to the form.

21                 MS. DARK: We heard you, Ambre.

22                 MR. HAMMONS: We gotcha.

23                 MS. GOOCH: Okay, good, good.

24                 MR. HAMMONS: Scared me.

25                 MS. GOOCH: Sorry.

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1 MR. HAMMONS: That's okay.

2 Q (By Mr. Hammons) And, again, just want to go  
3 through and make sure. Oh, let me look at this one here  
4 real fast. Letter E, obviously -- "If the arrestee  
5 states they recently attempted to end their life,"  
6 Letter E.

7 Obviously, Marconia didn't relay that to you,  
8 because he wasn't asked, is one reason; true?

9 MS. DARK: Object to the form.

10 A Yes, but, in other cases, inmates would come  
11 in and just start screaming that, before they even had a  
12 chance to sit down.

13 Q (By Mr. Hammons) Sure. But we ask the  
14 questions for a reason; true?

15 A True, yes.

16 Q Right. Because sometimes people need to be  
17 asked the question and then they can relay and say,  
18 "Yeah, you know what, I -- I've had some problems,"  
19 right?

20 A True.

21 Q And, that way, we know what we're dealing with  
22 as an -- for -- for a detention officer; true?

23 A True.

24 Q Now, during -- during this process -- and we  
25 see it on video, but I just want to make sure and ask



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1 the questions. Nothing was asked about his medical  
2 conditions; true?

3 A Not that I can recall.

4 Q No question was asked about how he was  
5 feeling?

6 A True.

7 Q No questions was asked about why he was  
8 sweating profusely?

9 A True.

10 Q No questions were asked about what substances  
11 he had ingested; true?

12 A Not that I can recall.

13 Q And that would be either prescription or  
14 illegal substances, no question was asked; true?

15 A True.

16 Q No questions were asked about any injuries he  
17 might have had that night; true?

18 A True.

19 Q Whether he had hit his head or fallen or been  
20 dragged apart- -- across a parking lot, wasn't asked;  
21 true?

22 A Nothing was asked.

23 Q Nothing was asked about -- nothing was asked  
24 about prescription medications; true?

25 A True.

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1 Q And, obviously, we already went over, nothing  
2 was asked about whether he had had suicidal attempts  
3 or -- or suicidal thoughts; true?

4 A True.

5 Q No one asked Clayton Rickert, on the video  
6 that we saw, to do those questions and ask those  
7 questions; true?

8 A True.

9 Q And there was no discussion had about  
10 completing that job; true?

11 A True.

12 Q And then again, as a detention officer at  
13 Cleveland County, Clayton Rickert didn't know there was  
14 a policy and procedure, so he might not even have known  
15 to ask the questions; true?

16 MS. DARK: Object to the form.

17 A True.

18 Q (By Mr. Hammons) And an easy decision for  
19 Mr. Rickert would be to put Marconia in a padded cell  
20 and wait till later; true?

21 MS. THOMPSON: Object to the form.

22 A I would -- I mean, you know, every nurse is  
23 different, how they handle things.

24 Q (By Mr. Hammons) Right.

25 A I wouldn't -- I don't know what he was

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1 thinking during that time.

2 Q Now, with respect to a medical assessment --  
3 whatever that is, a medical assessment -- Marconia  
4 clearly wasn't assessed medically; true?

5 MS. THOMPSON: Object to the form.

6 MS. DARK: Object to the form.

7 A Not to my knowledge.

8 Q (By Mr. Hammons) Now, anybody, January 16,  
9 2000 -- 2018, other than Clayton Rickert, that would  
10 have been responsible for performing that assessment?

11 A Only medical could assess inmates.

12 Q Yeah, and it -- it's a bad question.

13 What I'm getting at is: Was -- other than  
14 Clayton Rickert and a CMA, who -- I -- his -- his name  
15 is escaping me -- were there any other medically-trained  
16 staff on -- at Cleveland County that night?

17 A Not that I can recall.

18 Q And Clayton Rickert is the one who ordered  
19 Marconia placed in a padded cell; true?

20 A True.

21 Q And is that his call?

22 A Yes.

23 Q Okay. Whose job is it to let Clayton Rickert  
24 know when it's time for him to give Marconia a medical  
25 assessment?

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1 your training on the policy and procedures that you were  
2 taught by the sheriff, that would -- is there a length  
3 of time that's too long for it to go by without being  
4 done?

5 A Not that I can recall.

6 Q So, for instance, Marconia -- y'all could have  
7 kept doing the checks and stuff until the next morning,  
8 and then do the medical assessment, would be consistent?

9 A Correct.

10 Q He could sit in there for two days and that  
11 would have been consistent?

12 A Oh, he'd have got a -- you get fed three times  
13 a day in a jail, so for someone to get their tray, they  
14 got to get up, so that...

15 Q So that could be a -- an indicator, if they  
16 don't get their tray --

17 A Correct.

18 Q -- that they're -- whatever -- dead?

19 MS. DARK: Object to the form.

20 A It would indicate whatever is wrong with them,  
21 yes, that's true.

22 Q (By Mr. Hammons) Now, I think I -- I have his  
23 deposition here and I can find the exact place in here,  
24 but my understanding is -- and I want to know what you  
25 think -- is Clayton Rickert says it's your

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1 responsibility, as a detention officer, to come find him  
2 and tell him when the medical assessment should have  
3 been done on Marconia Kessee; is that accurate?

4 A Not to my knowledge.

5 Q Okay. Now, within the policies and procedures  
6 of Cleveland County, I don't think -- and you tell me if  
7 I'm wrong -- that that is spelled out, whose  
8 responsibility that is, within this policy and  
9 procedures; true?

10 A I'm not sure. I'd need to read it again to...

11 Q Sure. We'll -- we'll go through it, but I  
12 don't find it in there. Do you have a specific  
13 recollection of the sheriff or your training that says,  
14 in this kind of situation, whose responsibility it is to  
15 come and make -- when the medical assessment is  
16 completed?

17 A No, I do not.

18 Q Okay. And Clayton Rickert wouldn't have known  
19 what the policy and procedure said because he didn't  
20 even know it existed; true?

21 MS. DARK: Object -- object to the form. If  
22 you -- if you know.

23 A I -- I don't know, I don't...

24 Q (By Mr. Hammons) Again, Mr. Rickert was  
25 deposed December 15th and I asked him: "Okay, do you

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1 think that would have been important, for you to know  
2 Cleveland County Department -- or Cleveland County  
3 Detention Center's policies and procedures regarding  
4 inmate screening and medical care?" There were two  
5 objections.

6 Answer: "I don't even know if they have one."

7 "Well, would it surprise you if they do?"

8 "Yeah."

9 Then I went on to say: "But how would you  
10 know, if you didn't know the policies and procedures?"

11 "I didn't know that there was one."

12 "No one told you?"

13 Answer: "True."

14 So, I understand you haven't read that, but  
15 this is also a deposition by a codefendant in this case.  
16 It seems, from that testimony, Mr. Rickert didn't even  
17 know there was a policy and procedure; true?

18 A True.

19 MR. HAMMONS: I'm on track.

20 MS. DARK: Keep up the good work.

21 MR. HAMMONS: Trying.

22 Q (By Mr. Hammons) And I take it, from our  
23 discussion here -- and let me -- let me make sure that  
24 we're on the same page.

25 What I'm trying to figure out is: Did you

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1 know the signs of drug overdose, who's -- who's going to  
2 help an inmate having an overdose?

3 MS. DARK: Object to the form.

4 A You would hope and think medical, because they  
5 have the medical training. I didn't have training on  
6 it.

7 Q (By Mr. Hammons) I -- I've read some of these,  
8 and we'll go over these, but there's been a -- there's  
9 records that say "medical observation" and "critical  
10 observation." Okay?

11 What was Marconia on?

12 A So from my re- -- what I remember is Clayton  
13 wanted to do it -- a medical observation, and that was a  
14 30-minute sight check, I believe. And then our  
15 supervisor said, "No, we need to do a critical," because  
16 it's 15, so it's more times to check on him.

17 Q Okay. With respect to a medical observation,  
18 would that be medical checking on him every 30 minutes?

19 A I'm not even sure. I -- I'm not sure how  
20 that... I'm -- I'm not sure on that.

21 Q And I'm just trying to figure out: What --  
22 what is, seemingly, the difference between a medical  
23 observation and critical observation? Is it  
24 specifically just the time or is there other  
25 differences?

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1           A     Correct.

2           Q     With respect to suicide watch, this critical  
3     observation suicide watch seemed to be the same thing,  
4     to me. Is that true?

5           A     As far as I can remember it, yes.

6           Q     I guess what I should say is: Maybe they're  
7     not true in the same sense of the reasons, but they're  
8     practically the same 15-minute checks, et cetera; true?

9           A     I thought one was 30.

10          Q     Okay.

11          A     I thought medical was 30. That's what I was  
12     under the impression of, but that --

13          Q     Well --

14          A     -- may not be true.

15          Q     Well, yeah, I -- I don't know what medical is,  
16     either, but critical observation seems to be the same as  
17     suicide watch. I'm just wondering if there's a  
18     difference.

19          A     And there may not be. I'm not sure.

20          Q     Okay. What is -- what are -- what is a sight  
21     check?

22          A     It's a 15-minute -- you're supposed to stagger  
23     them and then you're supposed to just open the door,  
24     look for common signs, like bleeding, shaking, you know,  
25     throwing up, stuff like that. And then if they're



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1 sleeping, they're sleeping. But sight checks are just  
2 to make sure they're safe in the cell.

3 Q How do you tell the difference between  
4 sleeping and dead?

5 A You look for chest compressions, like a  
6 stomach moving, stuff like that.

7 Q What if they're laying on their stomach?

8 A You just assume they're asleep.

9 Q You know the old saying about what happens  
10 when we assume?

11 A I do not.

12 MS. DARK: Object to the form.

13 MR. HAMMONS: Can we take a break? I've got  
14 to use the restroom.

15 MS. DARK: Yeah.

16 MR. HAMMONS: Okay.

17 THE MONITOR: Going off the record. The time  
18 is 11:21 a.m.

19 (Recess was had from 11:21 a.m. to 11:32 a.m.)

20 THE MONITOR: We are back on the record. The  
21 time is 11:32 a.m.

22 Q (By Mr. Hammons) Mr. Shifflett, you good to  
23 proceed?

24 A Yep.

25 Q Okay. We were talking about sight checks. At

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1 Cleveland County, is -- is it also -- sight check  
2 training, is it also consistent with what we've already  
3 spoke about, where, yes, you kind of have the policy and  
4 procedure, but most of it is on-the-job training?

5 A Yes.

6 Q And depending on who trained you, would depend  
7 on how the sight checks are completed?

8 A Correct.

9 Q And sight checks, when we're talking about  
10 critical observation, those are important to the health  
11 and safety of inmates; true?

12 A True.

13 Q Now, have you -- have -- you haven't watched  
14 any of the sight checks, videos, preparing for this  
15 deposition; true?

16 A Not that I can recall.

17 Q Okay. Now, the padded cell, if you recall --  
18 or I -- I don't know if it may be like this on all the  
19 cells, but I only know about the padded cell. You open  
20 a door from the outside, a hatch, and there's a window;  
21 is that true?

22 A True.

23 Q And you -- it opens towards you and you look  
24 inside?

25 A True.

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1 A Yes.

2 Q So -- and then how about less than a second?

3 A I mean, that one is going to be hard, but --  
4 less than a second, that's a short, short time.

5 Q But two, three, or one second are consistent  
6 with how the sheriff wants you to do sight checks on  
7 people who are in critical observation; true?

8 MS. DARK: Object to the form.

9 A True.

10 Q (By Mr. Hammons) No one told you any  
11 different; true?

12 A No.

13 Q Okay. And in, for instance, a second, you are  
14 able to, with your training and experience at Cleveland  
15 County, determine if somebody is dead or asleep?

16 MS. DARK: Object to the form.

17 Q (By Mr. Hammons) True?

18 A True.

19 Q And a sight check of a second -- or let's call  
20 it one to three seconds. A sight check of one to three  
21 seconds is also consistent in the way in which you --  
22 you treated all inmates that were in critical  
23 observation during your time at Cleveland County  
24 Detention Center?

25 A Yes.

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1 Q And no one ever told you -- the sheriff or --  
2 or any of your sup- -- your superiors told you that a  
3 one-second sight check was insufficient to -- for the  
4 constitutional rights of an inmate?

5 A Will you reword that? Sorry.

6 Q Sure. No one ever reprimanded you for a  
7 one-second sight check and said that's not good enough  
8 for the constitutional rights of an inmate?

9 A True. No one did that.

10 Q Now... So inmates that are being observed due  
11 to health risks, either physical or mental, are all  
12 checked on in the same manner that Marconia was checked  
13 on; true?

14 A True.

15 Q And that may be a one-second sight check or  
16 even a two-second sight check or a three-second sight  
17 check; true?

18 MS. DARK: Object to the form.

19 A That's the way I did it, yes.

20 Q (By Mr. Hammons) Okay. And if I were to  
21 obtain a random sampling at the Cleveland County  
22 Detention Center of videos of this, that would be  
23 consistent -- if we saw one-second sight checks for days  
24 on end, that would be consistent with the training and  
25 policies that you were trained on at the Cleveland

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1 policies and procedures that you know of at -- at  
2 Cleveland County?

3 A Yes.

4 Q And as far as your training tells you, from  
5 Cleveland County Detention Center, one second or less --  
6 well, let's not say the less, you -- I -- I think you  
7 might not go that far.

8 One second is consistent with providing safe  
9 and constitutionally-protected medical care for an  
10 inmate like Marconia?

11 MS. DARK: Object to the form.

12 Q (By Mr. Hammons) True?

13 A True.

14 Q And you're okay with that; true?

15 A True.

16 Q And the Cleveland County Detention Center  
17 never told you it was insufficient?

18 A True.

19 Q At the jail facilities -- and I -- I see it in  
20 most of these -- Cleveland County -- time intervals  
21 seems important at a jail facility?

22 A Yes. You got to have a timer set to do the  
23 sight check or you wouldn't do it.

24 Q Right. It seems there's lots of forms and  
25 boxes, log sheets, to check at a jail facility, as a

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1 MS. DARK: Object to the form.

2 A True.

3 Q (By Mr. Hammons) Minutes certainly matter for  
4 a person who is potentially not breathing; true?

5 MS. DARK: Object to the form.

6 A True.

7 Q (By Mr. Hammons) And minutes could certainly  
8 mean the difference between dead and living; true?

9 A True.

10 Q If we go back to Exhibit No. 1, if we -- we're  
11 going to fast-forward to 464. And this is Policy 4.15,  
12 "Security: Sight Checks." Do you see that?

13 A Yes.

14 Q And this would be, considering the title,  
15 where you go to figure out how to do a sight check;  
16 true?

17 MS. DARK: Object to the form.

18 A Yes.

19 Q (By Mr. Hammons) And this would have been a  
20 policy back in January 16, 2018, that a detention  
21 officer would certainly be aware of; true?

22 A Yes.

23 Q And would have training on; true?

24 A On-the-job training, yes.

25 Q Okay.

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1 MR. WHITWORTH: Chris, can you tell us  
2 again -- I'm sorry -- what page of the policies you're  
3 on?

4 MR. HAMMONS: Yeah. 464, Policy No. --

5 MR. WHITWORTH: Thank you.

6 MR. HAMMONS: -- 4.15.

7 MR. WHITWORTH: Thanks.

8 MR. HAMMONS: Yep.

9 Q (By Mr. Hammons) Other than your on-the-job  
10 training, Exhibit 1, Page 464 -- there could be no  
11 better place to go, to learn how to do a sight check,  
12 than this document; true?

13 A True.

14 Q If it's not in the Policy and Procedure 4.15,  
15 then a detention officer or someone like Clayton Rickert  
16 would not have any direction on how to do it; true?

17 MS. DARK: Object to the form.

18 A I can only speak on myself, but I wouldn't  
19 know how to do it if I didn't have the policy or  
20 procedure.

21 Q (By Mr. Hammons) And the sheriff believed  
22 sight checks were important enough he put it in his  
23 policy and procedure; true?

24 MS. DARK: Object to the form.

25 A True.

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1           A     True.

2           Q     Isn't that what 4.15, titled "Sight Checks,"  
3     is about?

4                   MS. DARK: Object to the form.

5           A     Yes, it's about looking, and sight checks,  
6     yes.

7           Q     (By Mr. Hammons) Yeah, it's about tossing a  
8     cell for contraband; true?

9           A     True.

10          Q     And it's a page and a half -- or a page and a  
11     quarter long; true?

12          A     True.

13          Q     Okay. Well, it seems, as we look at the  
14     procedural guidelines, A, that you pointed out, that the  
15     sheriff chose to put sight check procedures for suicide  
16     watch, detox and other critical observation, in another  
17     section; true?

18          A     True.

19          Q     And the procedure for how to conduct a sight  
20     check on inmates in suicide watch or critical  
21     observation, detox, is arguably one of the most  
22     important policies and procedures in this entire book;  
23     true?

24                   MS. DARK: Object to the form.

25          A     Yes, it's a big deal.



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1 Q (By Mr. Hammons) Right. Detoxing inmates can  
2 have major problems; true?

3 A Yes.

4 Q Suicidal inmates certainly can have problems?

5 A Yes.

6 Q And then folks that have been determined to be  
7 on critical observation for mental or physical medical  
8 conditions, certainly it's important; true?

9 A Yes.

10 Q Okay. Now, a sight check procedure for  
11 suicide watch, detox or critical observation, if that  
12 procedure is not followed, it can lead to death of an  
13 inmate; true?

14 MS. DARK: Object to the form.

15 A Every situation is different, but, yes, it  
16 could possibly lead to that.

17 Q (By Mr. Hammons) Right. And it's completely  
18 reasonable for the sheriff to put that procedure, sight  
19 check procedure, in 3.15, the policy?

20 MS. DARK: Object --

21 MR. HAMMONS: That's a terrible question.

22 MS. DARK: Object -- yeah.

23 Q (By Mr. Hammons) The sight check procedure on  
24 suicide watch, critical observation and detox, he just  
25 put it in another section, and that's completely

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1 reasonable; true?

2 MS. DARK: Object to the form.

3 A It's probably in -- a more in-depth, you know,  
4 policy or whatever, but, yes, it's --

5 Q (By Mr. Hammons) Right. Because it's an  
6 important one, it might -- it might lend itself to being  
7 its own section?

8 A Correct.

9 Q Let's go -- we got to -- got to backtrack to  
10 Exhibit 1, Bates No. 407. Okay, you there?

11 A Yes.

12 Q Okay. Now, this 3.15, this is the one that  
13 was referenced in 4.15; true?

14 A Yes.

15 Q And it makes sense. It's Critical Observation  
16 Inmates; true?

17 A True.

18 Q Okay. Now, if you look in 3.15, it's -- it's  
19 about -- it's close to two pages long, and take your  
20 time. If you could, point out, in 3.15, where it  
21 describes the procedure for doing a sight check on  
22 suicidal, detoxing or critical observation inmates.

23 A This says, "Sight checks will be performed and  
24 logged every 15 minutes."

25 Q Yeah, that -- that's when they are to be done.

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1 I'm wondering if -- if -- if you agree with me that  
2 Section 3.15 does not give you any guidance on how to  
3 perform a sight check procedure for suicide watch, detox  
4 and critical observation inmates.

5 A By "perform," you mean, like, actually writing  
6 down a number and how -- how to do that part of it?  
7 Because it -- it tells us to do them every 15 minutes,  
8 but that's all it says.

9 Q Right. It doesn't give you the procedural  
10 guidelines to do that; true?

11 A True.

12 Q There's no definition of it in the definitions  
13 section, is there?

14 A Not that I read.

15 Q And in the procedural guidelines, you didn't  
16 read anything that gives you any guidance on how to do  
17 this lifesaving measure of a sight check procedure for  
18 suicide, detox or critical observation; true?

19 MS. DARK: Object to the form.

20 A No, just -- it just says a time and that's it.

21 Q (By Mr. Hammons) Right. That's when it's to  
22 be done, but the "how" is super important, right?

23 A Correct.

24 Q Now, then we are left to whatever individual  
25 taught you how to do them; true?

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1 Q (By Mr. Hammons) Probably -- likely not,  
2 right?

3 A I'm not sure. I'm really not sure.

4 Q Okay. And that sight check procedure, one  
5 second, is also consistent even though someone has not  
6 been medically assessed; true?

7 A True.

8 Q So, like, Marconia hasn't been medically  
9 assessed. One second is still good enough, even though  
10 y'all know nothing about his medical condition or his  
11 medications or, basically, anything about him?

12 MS. DARK: Object to the form.

13 Q (By Mr. Hammons) True?

14 A That's what -- yes, I mean, that's true.  
15 That's -- I treat everybody the same.

16 Q Right. And the sheriff -- that's how the  
17 sheriff wants you to treat them, too; true?

18 A That's -- yes, he didn't have a problem with  
19 it.

20 Q Right.

21 MS. DARK: Object to the form. Sorry.

22 Q (By Mr. Hammons) We can at least agree that if  
23 we're looking only at the policy, that the sheriff did  
24 not have a policy or training in place to understand  
25 what a sight check procedure for suicide watch, detox,

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1 and critical observation was?

2 MS. DARK: Object to the form.

3 A Will you reword that? Sorry.

4 Q (By Mr. Hammons) Sure. Just talking  
5 specifically about the policies and procedure in Exhibit  
6 1.

7 Will you agree with me that the sheriff did  
8 not have a policy or a procedure in place for sight  
9 check procedures on suicide watch, detox or critical  
10 observation inmates?

11 MS. DARK: Object to the form.

12 A Yeah, it just tells you, like, when to put  
13 them on and stuff, not how to do it?

14 Q (By Mr. Hammons) Right. Let's go to -- back  
15 to 380 of Exhibit 1.

16 A You said 380?

17 Q Yeah, 380. I think it's 3.03. "Booking  
18 Procedures." Are you there?

19 A Yes.

20 Q And the booking procedure is certainly  
21 something a detention officer would be familiar with at  
22 the Cleveland County Detention Center?

23 A Correct.

24 Q And that's something you would have been  
25 familiar with at -- on January 16th, 2018?

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1           A     Correct.

2           Q     Okay. It says, "Prior to accept-" -- and this  
3     is the policy, so the overall idea.

4                     "Prior to accepting custody of an inmate,  
5     detention staff will determine that the inmate can be  
6     legally committed to the facility and that the inmate is  
7     not in need of immediate medical attention, to avoid  
8     legal ramifications." Do you see that?

9           A     Yes.

10          Q     Okay. And this policy, at least part of the  
11     policy, is to avoid legal ramifications; true?

12          A     True.

13          Q     Like the legal ramifications we're in right  
14     now; true?

15          A     True.

16                     MS. DARK: Object to the form.

17          Q     (By Mr. Hammons) Tell me everything that you  
18     believe Cleveland County Detention Center staff,  
19     including anybody from Turn Key, did to determine  
20     Marconia was not in need of immediate medical attention,  
21     to avoid legal ramification.

22                     MS. DARK: Object to the form.

23          A     I'm not sure, because I'm only aware of what I  
24     did and what, you know, I -- I could do, but I'm not  
25     sure on that.

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1           Q     (By Mr. Hammons) What did you do to avoid --  
2     to -- to make sure and determine that Marconia was not  
3     in need of immediate medical attention, to avoid legal  
4     ramifications? What did you do?

5           A     I left that up to medical. I was standing  
6     beside medical --

7           Q     Okay.

8           A     -- during the whole process.

9           Q     So is it fair to say that, other than that,  
10    you took no other step to determine if Marconia needed  
11    medical attention?

12               MS. DARK: Object to the form.

13           A     Yes, it's true.

14           Q     (By Mr. Hammons) As we -- as -- as we sit here  
15    right now, in you looking back at that moment -- you  
16    know, we've seen the video a million times -- do you  
17    think it's obvious that Marconia Kessee had something  
18    wrong with him?

19               MS. DARK: Object to the form.

20               MS. THOMPSON: Object to the form.

21           A     I mean, knowing what I do now, I -- I mean,  
22    obviously, he was, I guess, detoxing or he had something  
23    like that in his system, so, yes, he had a -- he had a  
24    problem.

25           Q     (By Mr. Hammons) I mean, at the time, this is

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1 either/or. That's your decision.

2 Q Now, we -- we went over your words and Clayton  
3 Rickert's words. None of those words that I read to you  
4 earlier would be any help in determining if an inmate is  
5 not in need of immediate medical attention --

6 MS. DARK: Object to the form.

7 Q (By Mr. Hammons) -- true?

8 A True.

9 Q Just so -- we'll go over -- I think he's  
10 Lead -- Lead Detention Officer Cody Barr's words, too,  
11 just now, for -- right now, okay? They are -- and I --  
12 what I'm looking for is: Are any of these words useful  
13 in determining that an inmate is not in need of  
14 immediate medical care, okay?

15 A Okay.

16 Q "Okay, what size shoe do you wear? Okay,  
17 sounds good. Okay. All right, well, you still have  
18 your vest on. On. Okay. Chill, dude. You have  
19 nothing else in your pockets? Don't fucking bite me.  
20 I'll get his fucking feet."

21 Any of those words help you to follow the  
22 policy that we find in 3.03 on an inmate is not --  
23 determining whether an inmate is not in need of  
24 immediate medical attention?

25 MS. DARK: Object to the form.



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1           A     That's not my decision, it's medical's. But,  
2     for me, no, that doesn't -- you know, I can't speak for  
3     that, but it doesn't help me any.

4           Q     (By Mr. Hammons) Right. There's no question  
5     about anything medically or -- anything, honestly,  
6     besides your shoes and do you have stuff in your pocket;  
7     true?

8           A     Well, there wouldn't be any from us because we  
9     didn't ask medical questions.

10          Q     Right. Does the sheriff teach you guys that  
11     if something is so obvious, that you would stand up and  
12     say it?

13          A     I mean, I've taught myself that, but when you  
14     think someone is detoxing from alcohol, I mean, that's  
15     fine, just... I didn't see anything -- during that time,  
16     that day, I didn't see anything out of the ordinary from  
17     someone that wasn't detoxing from alcohol.

18          Q     Okay. But you can -- after looking at videos  
19     and seeing what's going on, you can understand why the  
20     family has a problem with this situation?

21                   MS. DARK: Object to the form.

22          A     I don't know, I really don't. I -- you know,  
23     I look at it and I still think it was alcohol. That's  
24     what -- but that's just me. I don't know. I really  
25     don't know.

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1 Q (By Mr. Hammons) In your mind --

2 A I understand why the family would be upset,  
3 because, you know, you lost a loved one. I'm sorry for  
4 that. I would be upset, too, but I --

5 Q Well, do you think Marconia Kessee was even --  
6 just even treated decently, period?

7 MS. DARK: Object to the form.

8 A I know, from what I did, I treated him like  
9 every other inmate. I can't speak for other officers  
10 involved, but that's --

11 Q (By Mr. Hammons) Right. But just because you  
12 treated him like every other inmate, doesn't mean that  
13 you treated every inmate decently.

14 MS. DARK: Object to the form.

15 A I'm not sure. I treat -- I just treat  
16 everybody the same. I'm not sure, you know.

17 Q (By Mr. Hammons) Well, we'll go over it in a  
18 minute, but I'm going to -- I'm going to -- I'm going to  
19 say you seem like a decent human being, as we've been  
20 sitting here talking, and I'm going to go out on a limb  
21 and assume that you don't tell people, in your everyday  
22 life, and say stuff like, "Fuck his ass." I'm going to  
23 go out on a limb and say that's true.

24 A That's actually false.

25 MS. DARK: Hold -- hold on. He hasn't asked a

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1 question.

2 Q (By Mr. Hammons) Would I -- I'm going to go  
3 out on a limb and say that's not how you treat people in  
4 your everyday life.

5 A Okay.

6 MS. DARK: Hold on, still no question.

7 Q (By Mr. Hammons) Question mark. That's not  
8 how you treat everybody in your everyday life, question  
9 mark?

10 A I talk to people like that. I truly do. You  
11 can ask my coworkers, you can ask whoever you want to.  
12 That's the way I talk.

13 Q Okay. And every inmate, whether they're poor,  
14 black and mentally ill, like Marconia, or if they're  
15 rich, white and well-to-do, gets the same kind of "fuck  
16 his ass" treatment by you?

17 MS. DARK: Object to the form.

18 A Correct. It doesn't matter on anything. I  
19 treat -- treat everybody the same.

20 Q (By Mr. Hammons) Okay.

21 MR. HAMMONS: I think, Jessica, we're on  
22 track. If we could all scarf down a sandwich and a bag  
23 of chips as quickly as -- and expeditiously as possible,  
24 and be back in here quickly --

25 MS. DARK: Yeah.

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1 MS. DARK: I'm just going to go ahead and  
2 object to all the questions about this exhibit.

3 MR. HAMMONS: Okay.

4 MS. DARK: To preserve that and --

5 MR. HAMMONS: We'll just go off the record for  
6 a second.

7 THE MONITOR: Going off the record. The time  
8 is 12:33 p.m.

9 (Recess was had from 12:33 p.m. to 12:36 p.m.)

10 THE MONITOR: We are back on the record. The  
11 time is 12:36 p.m.

12 Q (By Mr. Hammons) All right, we've had a short  
13 break. I got to find the right jail standards, so I'll  
14 -- we'll go back to that, so we're not just sitting,  
15 waiting on it.

16 A Okay.

17 Q Go -- let's go back to January 18, 2000 -- or  
18 January 16, 2018. Who, on that particular shift, would  
19 have been considered the boss?

20 A Sergeant Andrews.

21 Q Okay. And was there -- under "sergeant," I  
22 see "corporal" and then "detention officer." Is that  
23 accurate?

24 A Correct.

25 Q Was there any corporal on duty that particular

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1 in a very similar circumstance that you saw him in. Did  
2 you know that?

3 A I did not.

4 MS. GOOCH: Object to the form.

5 MR. PURINTON: Object to the form.

6 Q (By Mr. Hammons) Now, within Exhibit No. 6,  
7 this is kind of a recap of Cody Barr's interview, it  
8 seems to me. I'll ask more about it later, but I  
9 just -- there's a couple of statements here I want to  
10 make sure what you -- whether you agree or disagree with  
11 them.

12 It says, "Barr was unable to tell what Kessee  
13 was saying because it was a jumbled mess." Do you agree  
14 with that?

15 MS. DARK: Object to the form.

16 A I don't know what he was thinking, so I...

17 Q (By Mr. Hammons) Well, I'm just saying, he  
18 says Marconia's speech was a jumbled mess. Do you  
19 believe Marconia's speech was jumbled?

20 A I do believe that.

21 Q It was incoherent?

22 A Yes.

23 Q At -- at -- Mr. Barr stated, in this OSBI  
24 statement, that he was unaware as to why Rickert used  
25 ammonium capsules on Marconia. Are you aware of why he

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1 would use ammonium capsules?

2 MS. DARK: Object to the form.

3 A I am not. I remember just seeing it out and  
4 him popping it. That's all I really remember.

5 Q (By Mr. Hammons) Did -- did Rickert frequently  
6 just carry around ammonium capsules and stick them in  
7 inmates' faces?

8 MS. THOMPSON: Object to form.

9 A No, but medical did carry ammonium strips with  
10 them.

11 Q (By Mr. Hammons) Okay. And it was -- that was  
12 frequently used on inmates, on a regular basis?

13 MS. DARK: Object to the form.

14 A From what I remember, yes, if they were  
15 having -- I -- I think it was mainly used for, like,  
16 seizures and stuff like that. That's what brings you  
17 out -- well, I know it is, I've had a couple of  
18 seizures -- but that's -- that's what it was mainly used  
19 for around the jail.

20 Q (By Mr. Hammons) Okay. Do -- do you know if  
21 Marconia was actually having a seizure or not?

22 A I --

23 MS. THOMPSON: Object to form.

24 A I don't know. I didn't know.

25 Q (By Mr. Hammons) No one -- no one told you

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1 that?

2 A No one told me that, no.

3 Q Okay. And Clayton Rickerts didn't know. He  
4 didn't say anything; true?

5 MS. THOMPSON: Object to form.

6 A Correct, he didn't say anything.

7 Q (By Mr. Hammons) Okay. But you did witness  
8 him stick a -- an ammonium capsule in Marconia's face?

9 A Correct. It was right under his nose.

10 Q Okay. Barr told the OSBI that the -- Marconia  
11 started banging his head against the wall after Rickert  
12 used the ammonium capsule on him. Do you see that?

13 A Yes.

14 Q That's not accurate, is it?

15 MS. DARK: Object to the form.

16 A I don't recall.

17 Q (By Mr. Hammons) Well, let's -- let's take it  
18 this way. Marconia started banging his head on the  
19 wall, whether it's one or three or whatever times, when  
20 he was having one of these perceived seizures; true?

21 MS. DARK: Object to the form.

22 A Correct.

23 Q (By Mr. Hammons) And so prior to that, why  
24 would Rickert be sticking an ammonium capsule in his  
25 face?

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1           A     I'm not sure.

2           Q     Well, do you -- do you recall, based on seeing  
3     it -- we'll watch it in a minute. Do you recall seeing  
4     that on there, that the ammonium came after the head  
5     banging?

6           A     No, I thought it came -- or it came after the  
7     head banging.

8           Q     Right.

9           A     Oh, yeah.

10          Q     Right. So what I'm trying to get -- make sure  
11     that I understand is, is that Rickert didn't pull out an  
12     ammonium capsule, stick it in front of Marconia, and  
13     then he banged his head --

14          A     Yeah, correct, that didn't happen.

15          Q     -- right?

16          A     Correct.

17          Q     Right. Now, Barr told the OSBI he -- he felt  
18     Marconia was just faking all this stuff. Did you feel  
19     that way, too?

20                MS. DARK: Object to the form.

21          A     Coming from somebody that's had three  
22     seizures, I thought he was faking a seizure, because  
23     when he -- when we put him on the floor, he started to  
24     shake, and then he pulled away after the ammonia --  
25     whatever you call it.



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1 Q (By Mr. Hammons) Uh-huh.

2 A You know, me, when I have my seizures, it's a  
3 full-on -- like, I think the shortest seizure that I can  
4 remember is -- you're down for, like, 10 or 15 seconds  
5 and then you wake up.

6 Q Uh-huh.

7 A So I -- I believed he was -- was faking a  
8 seizure, and that is common -- a common thing within the  
9 jail. People come in and they know that, you know, if  
10 they fake a seizure, they could -- could possibly be  
11 sent back to the hospital.

12 Q Okay. But when they fake seizures, are they  
13 sent back to the hospital?

14 A It's up to medical. It just depends, case by  
15 case.

16 Q It says, "Then after he bang- -- began banging  
17 his head, Barr told the OSBI he, Shifflett and Rickert  
18 picked up Marconia off the bench and set him on the  
19 ground." That's not true, is it?

20 MS. DARK: Object to the form.

21 A No, I'm pretty sure we just -- or -- I don't  
22 remember, because I was on his feet. I don't know if we  
23 picked him up or if he just kind of slid down or...

24 Q (By Mr. Hammons) Yeah, he just went off into  
25 the floor. I don't think you even touched him when

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1           A       (Moved head up and down).  
2           Q       Right?  
3           A       Correct.  
4           Q       And that's -- his call number is 403?  
5           A       Yes.  
6           Q       Okay. And at the very top, it says, "Incident  
7   Type." Do you see that?  
8           A       Yes.  
9           Q       Top left?  
10          A       (Moved head up and down).  
11          Q       It says, "Medical Observation." What's that  
12   mean?  
13          A       Basically, that he's being put in the padded  
14   cell for his own safety, due to medical.  
15          Q       Okay. That's not -- it's not -- is that the  
16   same as critical observation?  
17          A       There's --  
18          Q       Do you know?  
19          A       -- two different ones.  
20          Q       Okay. So that one says "medical," so not  
21   critical. Right?  
22          A       Correct.  
23          Q       Okay. Now, in this -- in "Observations," if  
24   you'll look down in the observations, it says, "Inside  
25   the intake, Kessee refused to follow orders." Do you

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1 see that? It's about the third sentence down, halfway  
2 through. "Inside intake, Kessee refused to follow  
3 orders." Do you see that?

4 A Yes.

5 Q What orders did he refuse to follow?

6 A I think I asked him to quiet down or something  
7 along the lines of that. I think we asked him what shoe  
8 size. I'm not sure what else.

9 Q Well, I mean, at one point in time, you're  
10 seeing -- you say, "Stop, stop," and you -- you're  
11 pushing your hands down, like "quieten down." Are you  
12 talking about that? That's the order?

13 A I mean, that's all I could see of an order.

14 Q Right. We've listened -- we've heard the  
15 words. At least from my transcript of what y'all said,  
16 I -- I didn't hear any orders to Marconia Kessee.

17 A Correct.

18 Q Okay. So what -- how could that be true,  
19 what's in this official incident report, he refused to  
20 follow orders?

21 MS. DARK: Object to the form.

22 Q (By Mr. Hammons) There just were no orders,  
23 were there?

24 MS. DARK: Object to the form.

25 A I'm not sure. From my -- from me, personally,

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1 I thought me asking him to -- I didn't really ask. I  
2 was telling him to calm down and...

3 Q (By Mr. Hammons) He seems to calm down in the  
4 video. So it seems like he complied with that order.

5 A I mean, that was an order, but that was from  
6 me. I don't --

7 MS. DARK: Hold on. Wait for a question.

8 Q (By Mr. Hammons) So -- well, in the video,  
9 he's shown and he's trying to tell everybody that he's  
10 hot and sweaty. He says, "Hot and sweaty." He's trying  
11 to talk and that's when you shush him. He seems to  
12 quiet down. Isn't that complying with your order to  
13 hush?

14 MS. DARK: Object to the form.

15 A Yes.

16 Q (By Mr. Hammons) So that wouldn't fall into  
17 "refused to follow orders"; true?

18 A Correct.

19 Q And I don't know of any order -- we'll listen  
20 to it -- that Barr gave him. He said, "What size shoe  
21 do you wear?" That's not an order. Right?

22 A Well, I mean, I'm pretty sure when he got out  
23 of the back of the cop car, we asked him to walk.  
24 I'm -- I don't really remember. It's been a couple of  
25 days since I saw the video, but --

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1 Q Okay.

2 A -- I'm pretty sure we gave him orders.

3 Q Okay. Is there a difference between following  
4 orders and just, flat-out, just -- he's not able to  
5 follow the orders?

6 MS. DARK: Object to the form.

7 A I'm not sure.

8 Q (By Mr. Hammons) Okay. "Began to fake a  
9 seizure and L -- and LPN Rickert administered ammonium  
10 capsules. After administering the ammonia, he began to  
11 hit his head on the wall." Is that how you recall it?

12 A I do not.

13 Q Right. He was laying on the floor when the  
14 ammonium came out, right?

15 A I believe so.

16 Q He'd already hit his head on the wall; true?

17 A Yes.

18 Q And this is all on video, right?

19 A Yeah, but we weren't allowed to watch the  
20 video, so it's all memory you have to go off of.

21 Q Okay. "He was then set on the ground to keep  
22 him from hitting his head on the wall, so we could do a  
23 pat-down." See that?

24 A Correct.

25 Q Did y'all set him on the ground or did he fall

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1 MS. THOMPSON: Object to form.

2 A That's what I believed.

3 Q (By Mr. Hammons) Is -- is that at the -- at  
4 that point, is there any duty on you to say, "Well, how  
5 much have you been drinking", or, "What have you been  
6 drinking", or, "Are -- are you detoxing, are you coming  
7 down"? Is there any duty for you to do that?

8 MS. DARK: Object to the form.

9 A No, that was -- that was all medical.

10 Q (By Mr. Hammons) So if they don't ask it and  
11 you don't ask it, it's, like, "Oh, it's on them, no big  
12 deal"?

13 MS. DARK: Object to the form.

14 A No, because it's on medical.

15 Q (By Mr. Hammons) I know, but -- well, it's  
16 really on Marconia, right, because he's the one who  
17 suffers the -- the loss, right?

18 MS. DARK: Object to the form.

19 A I'm not sure.

20 Q (By Mr. Hammons) Well, don't -- aren't inmates  
21 entitled to have these things asked of them, so that if  
22 they are detoxing or under the influence or having a  
23 drug overdose, somebody, a detention officer or medical  
24 staff, can make -- be -- become aware of it?

25 A True.

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1 now.

2 (Plaintiff's Exhibit No. 5, Officer Brown's  
3 Body Cam Footage, was played off the record.)

4 MR. HAMMONS: I paused it at 38:50.

5 Q (By Mr. Hammons) So, again, we know, now that  
6 we've watched it, for sure, that what Barr told law  
7 enforcement about after the ammonium capsule, Kessee  
8 banged his head on the wall, that simply wasn't true?

9 A Correct.

10 Q And what he reported to law enforcement, that  
11 Barr, Shifflett and Rickert picked Kessee up off the  
12 bench and sat Kessee on the ground, that's not true, is  
13 it?

14 A Correct.

15 Q He slid off the bench when he was doing  
16 whatever was wrong with him; true?

17 MS. DARK: Object to the form.

18 A Correct.

19 Q (By Mr. Hammons) And it looks, to me -- you  
20 tell me -- from my watching of it, it looks like  
21 Marconia Kessee was in pain when he came off that bench.

22 MS. DARK: Object to the form.

23 A I'm not --

24 MS. GOOCH: Same objection.

25 A -- sure. I'm not sure on that.

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1 MS. DARK: Object to the form.

2 A Currently -- currently, I did.

3 Q (By Mr. Hammons) You did hear it?

4 A But not back...

5 Q Yeah. So now, at that moment in time of the  
6 intake process, there is no fit slip; true?

7 A Right now, I guess not, no.

8 Q Right. And by the time -- this doesn't last  
9 much longer -- y'all drag Marconia into that jail cell,  
10 there's no fit slip; true?

11 A True.

12 Q Right. So, I mean, that's a violation of  
13 Cleveland County Detention Center's policy?

14 MS. DARK: Object to the form.

15 A Well, medical -- we didn't -- you know, no one  
16 told us to drag him in. Medical said to put him in a  
17 sui- -- or a padded cell.

18 Q (By Mr. Hammons) I understand that, but  
19 there's no fit slip; true?

20 A Back then, I didn't know that. Yes, there  
21 wasn't one. Back then, I didn't -- I didn't hear that.  
22 I heard it now, but...

23 Q I know, but don't you have an absolute duty,  
24 as a detention officer, to make sure there's a fit slip?  
25 Are you going to tell the jury that that's not your job?



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1 MS. DARK: Object to the form.

2 A I'll tell the jury that I'm human and I missed  
3 it and that there was a lot going on in that room.

4 Q (By Mr. Hammons) In this room?

5 A The officers talking, the nurse is talking,  
6 Mr. Kessee was talking. There -- I mean, there's a lot  
7 going on.

8 Q Isn't that the normal situation?

9 A Not normal.

10 Q A detention officer, a jailer, and a cop and  
11 an inmate are typically in the intake room; true?

12 A Current- -- a typical situation, medical would  
13 be in the room, an officer would be at the counter  
14 making a bag, the officer would walk in, grab the slip,  
15 and go start booking him in. The officer would then go  
16 in the other room and fill out his affidavit. In a  
17 normal situation, you have two people in the room.

18 Q Well, why is this one -- why was this one  
19 treated differently?

20 A Because the officer requested assistance in  
21 the sally port and we had to carry him in.

22 Q Okay. Now, Exhibit No. 11, now that we've  
23 watched the video, obviously Marconia -- obviously he  
24 wasn't able to stand without assist and was not able to  
25 follow instructions when asked to sit on the bench. We

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1 know now, from looking at the video, that's 100 percent  
2 false?

3 MS. DARK: Object to the form.

4 A Correct.

5 MR. HAMMONS: I'm moving the Brown Exhibit 5  
6 video to 39:04.

7 MR. WHITWORTH: You cut out a little bit  
8 there. Can you say that again?

9 MR. HAMMONS: Yeah, I may have it wrong. Let  
10 me see what I -- let me get it there and I'll tell you  
11 when. I think I had it wrong on the time. Just a  
12 second, Brandon, I'll get you there.

13 MR. WHITWORTH: No problem.

14 (Plaintiff's Exhibit No. 5, Officer Brown's  
15 Body Cam Footage, was played off the record.)

16 MR. HAMMONS: Why don't we just start it at  
17 30 -- 38:50. 30 --

18 MR. WHITWORTH: Thanks.

19 MR. HAMMONS: 38:50, we'll start from there.

20 Q (By Mr. Hammons) Mr. Shifflett, at -- when  
21 you -- when -- here is where I want you to pay  
22 particular attention to Rickert and his ammonia  
23 treatment.

24 A Okay.

25 Q Okay? And do you -- do you consider ammonia

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1 packets, stuck in people's face, medical treatment?

2 MS. DARK: Object to the form.

3 MS. THOMPSON: Object to the form.

4 A It depends on the situation.

5 Q (By Mr. Hammons) Well, in this situation, is  
6 it medical treatment?

7 MS. THOMPSON: Object to form.

8 MS. DARK: Object to the form.

9 A We believed he was having a seizure and that's  
10 generally what you do when a seizure is happening.

11 Q (By Mr. Hammons) No one -- no one talked and  
12 communicated with each other that he was having a  
13 seizure. I mean, the word "seizure" is never used. How  
14 did y'all -- I mean, how are y'all, like, "We all know  
15 this is a seizure"? How is that possible?

16 MS. THOMPSON: Object to form.

17 A Me, personally, I've -- I've had seizures, but  
18 I don't know how all of us was on the same page. I'm  
19 not sure.

20 Q (By Mr. Hammons) Well, how do you know you  
21 were on that page? There's no mention in any record,  
22 any words that I've ever heard, of a seizure.

23 A Well, because you can put the ammonia -- I  
24 mean, you can plug two and two together. When --  
25 usually, when you pull out an ammonia strip, it's

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1 because of a seizure. And he's shaking, he just hit his  
2 head, he -- and went to the floor. That's a pretty  
3 common sign.

4 Q Okay.

5 MR. HAMMONS: Here we go, 38 -- I've got it at  
6 49 -- but play.

7 (Plaintiff's Exhibit No. 5, Officer Brown's  
8 Body Cam Footage, was played off the record.)

9 Q (By Mr. Hammons) Now, I didn't -- I mean, I'm  
10 watching it. He's got an ammonia packet stuck in  
11 Marconia's face and he's -- Marconia is not moving, he's  
12 not reacting at all, for -- I've counted it, obviously,  
13 preparing for this deposition -- it's about nine  
14 seconds.

15 A I thought he was --

16 Q He doesn't move.

17 A I thought he was talking, though, at the  
18 beginning. Was he not talking?

19 Q No. Well, we can watch it again.

20 MR. HAMMONS: Backing it up to 39:18, and I'm  
21 going to start it.

22 (Plaintiff's Exhibit No. 5, Officer Brown's  
23 Body Cam Footage, was played off the record.)

24 Q (By Mr. Hammons) I mean, am I -- am I -- am I  
25 seeing that inaccurately? He's got it stuck in his

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1 face, he ain't moving at all?

2 A Correct.

3 MS. DARK: Object to the form.

4 Q (By Mr. Hammons) But that was the indication,  
5 to all of you that I've talked to so far, that he was  
6 faking?

7 A I was looking down the whole time and I was  
8 still under the impression that he was faking a seizure,  
9 and now he's just sitting there. I didn't -- I didn't  
10 know he was holding the ammonia strip there for 10  
11 seconds or whatever it was.

12 Q I mean, you -- but you see it now, I mean, do  
13 -- don't you wish Clayton Rickert would have said  
14 something at that point?

15 MS. THOMPSON: Object to form.

16 A Yes.

17 Q (By Mr. Hammons) And then all we have now, we  
18 have the -- the -- Officer Brown further distracting us,  
19 he calls him an idiot, right?

20 MS. GOOCH: Object to the form.

21 A I don't -- I don't -- I don't know who said  
22 that. I don't know if it was Officer Brown.

23 (Plaintiff's Exhibit No. 5, Officer Brown's  
24 Body Cam Footage, was played off the record.)

25 Q (By Mr. Hammons) Okay. That's Barr, right,

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1 Q So you believe Marconia Kessee was assaulting  
2 you?

3 A No. I don't think that, at all. I think --

4 Q Or do you think he was involuntary -- his legs  
5 were moving because he's dying?

6 MS. THOMPSON: Object to the form.

7 MS. DARK: Object to the form.

8 A I -- I don't know. I can't say that.

9 Q (By Mr. Hammons) Is -- but "fuck his ass,"  
10 that -- that particular attitude is consistent with the  
11 way you treat inmates in Cleveland County?

12 MS. DARK: Object to the form.

13 A Correct. That's the way I treat everybody.

14 Q (By Mr. Hammons) And in this particular  
15 instance, you can understand how "fuck his ass" is going  
16 to come into play in this -- this case?

17 MS. DARK: Object to the form.

18 A I do not.

19 Q (By Mr. Hammons) Huh?

20 A I -- I mean, I don't understand what -- what's  
21 your question?

22 Q I'm asking you: Do you understand why that's  
23 going to be a piece of evidence in this case, you  
24 saying, "Fuck his ass"?

25 MS. DARK: Object to the form.

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1           A       That I was frustrated and said, "Fuck his  
2    ass"?

3           Q       (By Mr. Hammons) Yeah.

4           A       I guess I do. I mean, it -- it will probably  
5    be a big thing, but I own up to saying it. I was  
6    frustrated and...

7           Q       I understand, but you can see where it's  
8    heading, because he ends up dead in your jail cell?

9                   MS. DARK: Object to the form.

10          A       Oh, I -- I don't know. I don't know.

11          Q       (By Mr. Hammons) You don't know that he ended  
12   up dead in the jail cell?

13          A       I don't know where it's leading to. I know he  
14   -- obviously, I know, now, he died in the jail cell, but  
15   I don't -- I don't know where it's going to go.

16          Q       But you don't make any apologies for it?

17                   MS. DARK: Object to the form.

18          A       I do not. You -- I mean, that's jail talk,  
19   so...

20          Q       (By Mr. Hammons) That's -- that's talk that  
21   inmates in the position of Marconia Kessee deserve?

22                   MS. DARK: Object to the form.

23          A       Like I said before, I treat everybody the  
24   same, I talk to everybody the same.

25          Q       (By Mr. Hammons) So if, in fact, this was a

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1 20-year-old frat boy from OU walking in here, and he  
2 started acting like this, "Fuck his ass" would be the  
3 same attitude with him, too?

4 A Absolutely.

5 Q It doesn't matter that Marconia is a poor,  
6 black, mentally ill person?

7 MS. DARK: Object to the form.

8 A Race or anything doesn't have anything to do  
9 with how I treat somebody. That's -- a person is a  
10 person, regardless of color.

11 Q (By Mr. Hammons) Right. And an inmate is an  
12 inmate at Cleveland County Detention Center?

13 MS. DARK: Object to the form.

14 A I treat everybody the same. I treat the  
15 inmates the same, I treat my parents the same, I treat  
16 the guys I work with now the same. Everyone.

17 Q (By Mr. Hammons) Well, I'm talking  
18 specifically this kind of -- the treatment Marconia  
19 Kessee got on January 16, 2018, is consistent with your  
20 training at the Cleveland County Detention Center?

21 A Correct.

22 Q Okay. No one took Marconia's temperature;  
23 true?

24 MS. THOMPSON: Object to the form.

25 A Correct.



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1 Q It's an incident report by Cody Barr. Do you  
2 see that?

3 A Correct.

4 Q Okay. Down in the last paragraph, it says,  
5 "Kessee was lying on his stomach just as we had left him  
6 after removing his clothes, giving him a blanket.  
7 Kessee was not moving but was muttering loudly to  
8 himself. I was unable to accurately understand what he  
9 was saying but logged him as awake." Do you see that?

10 A Correct.

11 Q Now, when -- when an individual is placed in  
12 this cell under critical observation, and you hear them  
13 muttering, is it important to find out what they're  
14 muttering?

15 A No.

16 MS. DARK: Object to the form.

17 Q (By Mr. Hammons) What if they're muttering,  
18 "Help"?

19 MS. DARK: Object to the form.

20 A I'm not sure.

21 Q (By Mr. Hammons) Right. That's the point, is:  
22 Don't you want to be sure in -- when you're doing a  
23 sight check?

24 A Yeah.

25 Q And you haven't watched the body cam video

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1           A     Yes.

2           Q     Okay. And it says, "LPN" -- down at the last  
3 paragraph, I'm reading. "LPN Clayton Rickert stated  
4 it's not a critical observation, it's a medical  
5 observation. Sergeant Andrews stated to place him on  
6 15-minute sight checks, regardless. I conducted a sight  
7 check on inmate at approximately 20:16 and I observed  
8 him laying on his stomach at the back of B30 -- 130.  
9 His left leg and left arm were halfway out of the green  
10 smock. Inmate Kessee's head was facing away from me. I  
11 placed a two on the critical observation sheet and  
12 returned to my normal duties without further incident."

13                     Do you see that?

14          A     Correct.

15          Q     So that -- you -- you looked in, saw his feet  
16 were sticking out, and wrote that his feet were sticking  
17 out, and then wrote "two" as asleep?

18          A     Correct.

19          Q     Okay. And that -- that's a consistent sight  
20 check with your training?

21          A     Correct.

22          Q     Okay. Any -- is there anything that you saw  
23 in those second and a half, two seconds, that would  
24 indicate to you that he was actually -- his heart was  
25 beating or he was breathing?

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1 A Yes.

2 Q "Medical reception information shall be  
3 recorded in the inmate file and shall include a minimum  
4 of the following information." Is that the same as  
5 yours?

6 A Yes.

7 Q Okay. Now, this standard, it seems that  
8 Cleveland County had this process at Cleveland County  
9 when you were there; true?

10 A True.

11 Q And medical reception, in my mind, would have  
12 been that medical screening room that -- that you would  
13 typically take an inmate into; is that accurate?

14 A Correct.

15 Q Okay. And "the minimum following information:  
16 Current illnesses and health problems." Do you see  
17 that?

18 A Yes.

19 Q And that's -- that's a big one in Marconia's  
20 case because we don't know what his current illnesses or  
21 health problems were; true?

22 A Correct.

23 Q Okay. "Behavioral observations." Is that one  
24 on your version of this?

25 A It is --

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1 care and health services." Do you see that?

2 A Correct.

3 Q Okay. No. 1, you -- isn't that "The  
4 administrator shall" -- is that what yours says?

5 A Yes.

6 Q "The administrator shall be responsible for  
7 the facility's medical services and shall develop, with  
8 the assistance of the designated medical authority, the  
9 facility's healthcare plan." Do you see that?

10 A Yes.

11 Q Who is the administrator at Cleveland County  
12 Jail when you were there?

13 A I'm not sure.

14 Q Okay. Do you know what a designated medical  
15 authority is?

16 A No, I do not.

17 Q Okay. Did you know whether or not Cleveland  
18 County had a facility healthcare plan?

19 A I'm not sure.

20 Q Okay. No. 2, does it say, "Intake screening"?

21 A Yes.

22 Q "Intake screening shall be performed on all  
23 inmates immediately upon admission to the facility."

24 See that?

25 A Yes.

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1 illnesses/health problems." You see that? No. --

2 A Yes.

3 Q And Letter ii is "Behavioral observations."

4 Do you see that?

5 A Yes.

6 Q "Include-" -- does it say, "Including state of  
7 consciousness and mental status"?

8 A Yes.

9 Q Do you, as a detention officer, have to make  
10 behavioral observations about inmates, or are you  
11 required to do that?

12 A We're not required.

13 Q Did you make any observations of Marconia  
14 Kessee about his state of consciousness or mental  
15 status?

16 A No.

17 Q Okay. Let me see that back a second. Thanks.

18 MR. HAMMONS: If you'll put that with those  
19 and you can -- yeah, put it off to the side or whatever,  
20 stack it up.

21 Q (By Mr. Hammons) I'm going to try to just help  
22 out and streamline some of this.

23 Do you know Steven Roberts?

24 A No.

25 Q He's an ER physician who worked at Norman

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1 is correct or not; is that correct?

2 A Correct.

3 Q And you're not qualified to provide any  
4 treatment for any medical conditions; is that correct?

5 A Correct.

6 Q Is it also accurate that you're not qualified  
7 to pronounce someone dead?

8 A Correct.

9 Q That would have to be a physician, correct?

10 A Yes.

11 Q So even Clayton Rickert, being an LPN, cannot  
12 determine whether someone is actually clinically dead,  
13 correct?

14 MR. HAMMONS: Object to the form.

15 A Correct.

16 Q (By Ms. Thompson) When Marconia Kessee arrived  
17 at the jail, did you observe any injuries on him?

18 A Not that I can recall.

19 Q Was he bleeding anywhere?

20 A Not that I can recall.

21 Q Was he throwing up?

22 A No.

23 Q And based on what you knew at the time, you  
24 thought that Marconia Kessee was having a behavioral  
25 issue, correct?

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1 MS. DARK: Object to the form.

2 MR. HAMMONS: Object to the form.

3 A I thought he was intoxicated with alcohol.

4 Q (By Ms. Thompson) Intoxicated? Did you  
5 observe anything about Marconia Kessee's behavior that  
6 caused you to believe that he needed to go back to the  
7 hospital?

8 A I did not.

9 Q If you observed something like that, would you  
10 have -- what would you have done about that?

11 MR. HAMMONS: Object to the form.

12 A I would have got with Sergeant Andrews, told  
13 him, made Sergeant Andrews aware, and then let him take  
14 care of it from there.

15 Q (By Ms. Thompson) And I understand that you're  
16 a layperson in the medical field, but, based on what  
17 you've seen, you did not feel like Marconia needed to go  
18 back to the hospital where he just came from, correct?

19 MR. HAMMONS: Object to the form.

20 A No, I did not. I thought he was just  
21 intoxicated from alcohol.

22 Q (By Ms. Thompson) And while Marconia Kessee  
23 was in the padded cell, you, personally, checked on him  
24 multiple times, correct?

25 A I did once.

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1 "Well, I understand, I'm not -- I'm just asking you if  
2 you don't think you're qualified to make assessments or  
3 not."

4 He says, "I can't assess a medical condition."  
5 Same as you; true?

6 A Correct.

7 Q Right. So y'all are very similar in the fact  
8 of your medical -- the ability to make medical  
9 assessments in the jail, which is no knowledge?

10 MS. DARK: Object to the form.

11 MS. THOMPSON: Object to the form.

12 A Correct.

13 Q (By Mr. Hammons) Okay. So, for instance, when  
14 they're asking you about whether you, in that one-second  
15 sight check, the one you did -- whether you could  
16 determine, in that one second, whether somebody was  
17 having a medical problem, you can't decide it because  
18 you don't make medical decisions, you don't have medical  
19 training; true?

20 MS. DARK: Object to the form.

21 A No, but I can see the common signs of bleeding  
22 or, you know, jumping around, beating at the door.

23 Q (By Mr. Hammons) Okay. You could -- you -- in  
24 your -- we went over your report. His head was facing  
25 away from you. How do you know he hadn't vomited?



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1           A     I did not. I just thought he had went to  
2     sleep.

3           Q     Right. Well, you were asked, earlier, did --  
4     could you tell if he was vomiting?" and you said he  
5     wasn't, so that's not exactly true. If his face was  
6     away, he could have been vomiting and choking on it and  
7     you wouldn't have known?

8                   MS. DARK: Object to the form.

9           A     Correct, I wouldn't have known.

10          Q     (By Mr. Hammons) Especially in one second;  
11     true?

12                   MS. DARK: Object to the form.

13          A     I mean, I judge things pretty fast, so, I  
14     mean, I could have saw it if he wasn't facing away from  
15     me.

16          Q     (By Mr. Hammons) Right. You were also asked  
17     about your knowledge of Clayton Rickert's qualifications  
18     and you didn't know that he considered himself not  
19     qualified. You didn't know that, at the time; true?

20          A     Correct. I thought he was qualified.

21          Q     But to be fair to you, Mr. Shifflett, that's  
22     not your job, to know who they put in as an unqualified  
23     nurse, medical staff, at the jail, is it?

24                   MS. DARK: Object to the form.

25                   MS. THOMPSON: Object to the form.